UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/599,328 | 07/08/2008 | Thomas Portele | DE 040083 | 7016 |

24737      7590      03/08/2011
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| EXAMINER |
|---|
| SAX, STEVEN PAUL |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2174 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 03/08/2011 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)☒ Responsive to communication(s) filed on *15 December 2010*.

2a)☒ This action is **FINAL**.        2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

## Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☒ All   b)☐ Some * c)☐ None of:

   1.☒ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

## DETAILED ACTION

1.      The amendment filed 12/15/10 has been entered.

2.      In view of the amendment and remarks, the objection to claims 1 and 10

has been removed.

3.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.      Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Law (7712031) and Hiipakka (2003/0098892).

5.      Regarding claim 1, Law shows a method for driving multiple elements of

an application (A1, A2, A3, ..., An) by a common dialog management system where a

unique set of auditory icons (S1, S2, S3, ..., Sn) is assigned to each application element

(A1, A2, A3, ..., An) [abstract, Figures 4-5, column 1 lines 55-67, column 4 lines 3-30],

and where the common dialog management system informs a user of the status of an

application element (A1, A2, A3, ..., An) by playback [column 2 lines 10-35, column 4

lines 30-60], at a specific point in a dialog flow, of a relevant auditory icon (I1, I2, I3, ...,

In) selected from the unique set of auditory icons (S1, S2, S3, ..., Sn) of the respective

application element (A1, A2, A3, ..., An) [Figure 4, column 35-55, column 5 lines 20-50].

Law does not go into the details that each application element is a separate application

per se, but does show distinguishing different functions with auditory icons.

Furthermore, Hiipakka does show representing different applications by auditory icons,

to distinguish different functions [abstract, Figure 1, para 26, 28, 32, note the different

application examples associated with the auditory icons].  It would have been obvious to

a person with ordinary skill in the art to have this in Law, because it would be a

convenient way to distinguish different functions with auditory icons.

6.      Regarding claim 2, the auditory icons (I1, I2, I3, ..., In) of an application

(A1, A2, A3, ..., An) are played back to indicate to the user a change in operational

status of an application (A1, A2, A3, ..., An) [Law column 4 lines 40-60].

7.      Regarding claim 3, an application (A1, A2, A3, ..., An) submits a set of

auditory icons (S1, S2, S3, ..., Sn) and associated instructions concerning the

use thereof to the dialog management system (I) [Law column 4 lines 20-40].

8.      Regarding claim 4, identifying information for the individual auditory icons

(I1, I2, I3, ..., In) of an application (A1, A2, A3, ..., An) and associated instructions are

obtained by the dialog management system (I), and the auditory icons (I1, I2, 13, ..., In)

are retrieved by the dialog management system (i), from the application (A1, A2, A3, ....

An) upon request [Law column 4 lines 20-50].

9.      Regarding claim 5, the complete set of auditory icons (S1, S2, S3, ..., Sn)

of an application (A1, A2, A3, ..., An) is acquired by the dialog management system (I)

at the outset of a dialog flow between the user and the application (A1, A2, A3, ..., An)

or upon activation or installation of the application (A1, A2, A3, ....An) [Law Figures 4, 5,

column 4 lines 3-26].


10.      Regarding claim 6, the dialog management system (i) supplies an

application (A1, A2, A3, ..., An) with a unique set of auditory icons (S1, S2, S3, ..., Sn),

by modifying non-unique auditory icons (I1, I2, I3, ..., In) in a set of auditory icons (S1,

S2, S3, ..., Sn) of the application (A1, A2, A3, ..., An) and/or choosing unique auditory

icons (I1, I2, I3, ....In) for the application (A1, A2, A3, ..., An) from a collection (13) of

auditory icons [Law column 4 lines 15-49, column 5 lines 45-60 – note the dialog

auditory elements which are selected, placed, and modified].


11.      Regarding claim 7, the set of auditory icons (SI, S2, S3, ..., Sn)

for playback in a dialog flow between a user and an application

(A1, A2, A3, ..., An) comprises at least one unique start auditory icon, for playback at

commencement of the dialog flow and/or at least one unique end auditory icon, for

playback at conclusion of a dialog flow [see Law column 4 lines 3-26 and 40-60

specifically, although all of column 4 brings this out].

12.     Regarding claim 8, the set of auditory icons (Si, S2, S3, ..., Sn)

for playback in a dialog flow between a user and an application

(A1, A2, A3, ..., An) comprises a number of unique informative auditory icons (I1, I2, I3,

..., In), for playback at specific points during the dialog flow where each auditory icon

(I1, I2, I3, ..., In) describes a particular type of feedback from the application (A1,

A2, A3, ..., An) [Law column 4 lines 20-25, column 5 lines 25-50].

13.     Regarding claim 9, auditory icons (I1, I2, I3, ..., In) and/or

playback characteristics of the auditory icons (I1, I2, I3, ..., In) are specified for a user in

a user profile (3) [Law column 3 line 55 – column 4 line 20].

14.     Regarding claim 10, Law shows a dialog management system for driving a

number of application elements (A1, A2, A3 ..... An), comprising an input detection

arrangement (4) for detecting user input (5) to the system [Law Figure 2, column 3 lines

35-55]; a sound output arrangement (6) for outputting audible prompt (7) [Law column

lines 25-40]; a core dialog engine (8) for coordinating a dialog flow by interpreting user

input (5) and generating output prompts [column 4 lines 3-26]; an application interface

(i) for communication between the dialog management system (i) and the application

elements (A1, A2, A3, ..., An) [column 3 lines 57-67]; a source of unique sets of auditory

icons (SI, S2, S3, ..., Sn) assigned to the application elements  (A1, A2, A3, ..., An)

[Figure 4, column 4 lines 15-50]; and an auditory icon management unit (ii) for selecting

relevant auditory icons (I1, I2, I3, ..., In) from the unique sets of auditory icons (S1, S2,

S3, ..., Sn) corresponding to the application elements (A1, A2, A3, ..., An) for playback

at specific points in the dialog flow [Law column 4 lines 20-45, column 5 lines 25-50].

Law does not go into the details that each application element is a separate application

per se, but does show distinguishing different functions with auditory icons.

Furthermore, Hiipakka does show representing different applications by auditory icons,

to distinguish different functions [abstract, Figure 1, para 26, 28, 32, note the different

application examples associated with the auditory icons].  It would have been obvious to

a person with ordinary skill in the art to have this in Law, because it would be a

convenient way to distinguish different functions with auditory icons.

15.     Regarding claim 11, note the means (15) for allowing the user to input

auditory icons (I1, I2, I3, ..., In) [Law column 4 lines 4-25].

16.     Regarding claim 12, note the interface (14) for obtaining individual

auditory icons (I1, I2, I3, ..., In) from an external source (12) [note the claim recites in

alterative form, and so only the individual auditory icons need be shown, and see Law

again column 4 lines 10-20, column 12 lines 10-40 for example, and column 3 lines 10-

30].

17.     Claim 13 shows the same features as claim 1 and is rejected for the same

reasons.

18.    35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

19.    Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.  Claim 13 recites a computer program product comprising software code.  This is not statutory subject matter.

20.    Applicant's arguments filed have been fully considered but they are not persuasive.  The VoiceXML tag of Law need not be the only correspondence to the auditory icon.  Furthermore, applicant's claims do not distinguish per se a selection different from that performed in Law even if the tag is first generated.  Note that applicant's claims are very broad, and the recitation in claim 1 for example is passive in that the status of the application is informed of a relevant auditory icon selected from the unique set of auditory icons.  Law in fact shows this action as described above.

Regarding the 101 rejection, the fact that the product is loadable into the memory, if anything, even supports Examiner's allegation that the product is software code.  More pertinently, applicant's claim recites that the product *comprises software code portions*.  Software code (portions) simply do not constitute statutory subject matter.

Note though, in view of the amendment and remarks, the objection has been removed from claims 1 and 10.

21.     **THIS ACTION IS MADE FINAL.**  Applicant is reminded of the extension of

time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action.  In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action.  In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.


22.     Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Steven P. Sax whose telephone number is (571)

272-4072.  The examiner can normally be reached on Monday thru Friday, 8:30 AM -

5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Dennis Chow can be reached on (571) 272-7767.  The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


/Steven P Sax/
Primary Examiner, Art Unit 2174

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